

TESTIMONY OF

**Aaron Carranza, Division Director, Regulatory Division**

Chairman Porter, and members of the House Energy and Natural Resources committee, I am Aaron Carranza, Regulatory Division Director of the Department of Water Resources. I'm here today to provide testimony in support of SB 2044.

This bill is one of the red tape reduction efforts being pursued by the Department of Water Resources (Department) this session and seeks to amend the current process under North Dakota Century Code (N.D.C.C.) § 61-01-06(1) relating to "watercourse determinations."

Currently, the question of whether a watercourse is constituted may be asked of the Department by any water resource district. Water resource districts may also perform a watercourse determination independently of the Department.

When the Department is requested to perform a watercourse determination, the Department's workload and the prioritization of active permitting requests, ahead of watercourse determinations, results in an extended processing time for the watercourse determination requests.

This bill proposes transitioning the Department from the primary request and determination role into an appeal remedy for any party aggrieved by a state or state political subdivision's watercourse determination. In addition, the new language makes clear the administrative appeal remedy for any Department decision resulting from the proposed appeal of a Department decision.

The Department recently developed North Dakota Administrative Code ch. 89-15-01 to outline the process and considerations that would guide any watercourse determination in the state. The Department also created the attached graphic to help with understanding the determination process.

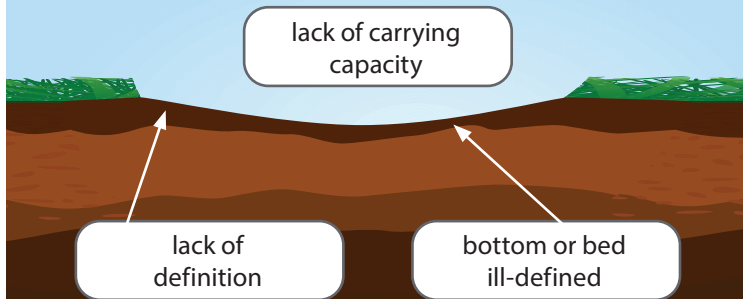
The move of the Department to an appeal remedy, as well as the creation of the review process in North Dakota Administrative Code, allows for more efficient processing of watercourse determinations throughout the state.

Thank you for the opportunity to testify, and I'm happy to answer any questions.

# WATER FEATURES

"Waterway" - An overarching term for "a natural, geologic feature that conveys surface water over land."  
A "watercourse" is a specific type of "waterway."

## WATERWAY N.D.C.C. § 61-01-06(2)



**Terminology** - Draw, Swale, Valley,  
all other Watercourse Terminology

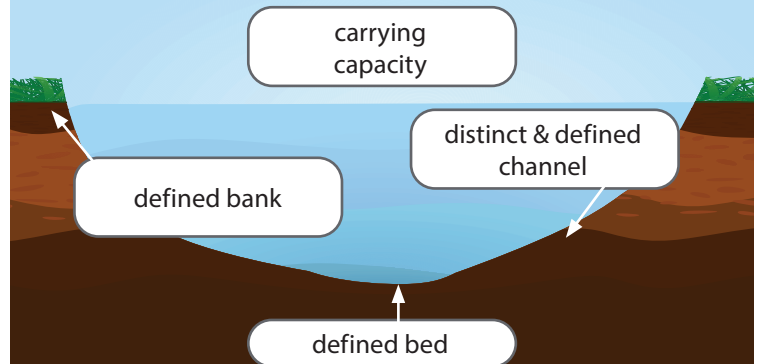
Not distinct nor defined

May convey water occasionally  
but lacks carrying capacity

Ag production in  
normal precipitation years



## WATERCOURSE N.D.C.C. § 61-01-06(1)



**Terminology** - River, Stream,  
Creek, Channel

Distinct & plainly defined  
channel of permanent character

Sufficient natural and accustomed flow

No Ag production in  
normal precipitation years



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Water Resources